

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE
CATHY COX**

(Pursuant to OCGA §§ 50-13-3, 50-13-4, and 50-13-6.)

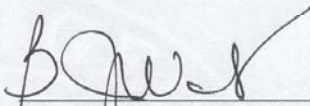
I do hereby certify that the attached is a correct copy of new Administrative Rules 290-2-5-.20 through 290-2-5-.24 as promulgated and adopted on the 16th day of August, 2006.

GEORGIA DEPARTMENT OF HUMAN RESOURCES

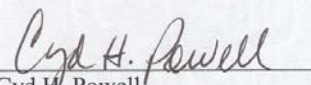
Filed August 21, 2006.

The attached Rules 290-2-5-.20 through 290-2-5-.24 within Rules Chapter 290-2-5 entitled "Rules and Regulations for Child Caring Institutions" are hereby adopted as new Administrative Rules of the stated numbers and titles.

Statutory Authority: OCGA §§ 49-5-8 and 49-5-12.


B. J. Walker
Commissioner

Sworn to and subscribed before me
this 21st day of August, 2006.


Cyd H. Powell
Notary Public, Henry County, Georgia
My commission expires February 1, 2008



**RULES
OF
DEPARTMENT OF HUMAN RESOURCES
OFFICE OF REGULATORY SERVICES**

**CHAPTER 290-2-5
RULES AND REGULATIONS FOR CHILD CARING
INSTITUTIONS**

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290-2-5-.20 Child Caring Institutions Serving Medically Fragile Children. In addition to meeting all other provisions of this chapter, the following shall apply to child caring institutions to be known as child caring institutions providing services to medically fragile children:

(1) Definitions.

(a) “Medically Fragile Child” or “Medically Fragile Children” mean(s) a child (children) who, because of an accident, illness, congenital disorder, abuse or neglect, has (have) been left in a medically stable condition, but dependent on life sustaining medications, treatments, equipment and assistance with activities of daily living.

(b) “Activities of Daily Living” means assistance with eating, dressing, bathing, grooming and toileting.

(c) “Nursing Services” means those services that may only be provided by licensed registered nurses or licensed practical nurses pursuant to the regulations established under Georgia law. O.C.G.A. 43.26-3 *et seq.*

(d) “Professional Services” means services provided by a licensed or certified professional such as an audiologist, clinical social worker, dentist, dietician, family therapist, licensed professional counselor, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychologist, respiratory therapist, speech-language pathologist and others as needed to implement the medically fragile child’s Individual Service Plan.

(e) “Transfer Agreement” means a written contract with other institutions providing for transfer of a medically fragile child between the child caring institution and another licensed facility and for interchange of medical and other information when the child caring institution cannot provide the level of care needed by the medically fragile child.

(f) “Child Caring Institutions Serving Medically Fragile Children” means child caring institutions which are primarily engaged in providing residential care, not exceeding one (1) year, to no more than twelve (12) medically fragile children, birth through 18 years, integrated health services, assistance with activities of daily living and social services who require a transitional placement in a community living atmosphere, prior to an appropriate longer term residential placement.

(2) Provision of Services.

(a) Child caring institutions providing services to medically fragile children shall not admit or retain medically fragile children whose need they cannot meet. These child caring institutions shall

not provide services for which another more specific license would otherwise be required.

(b) Where the child caring institution serves as a placing agency, the child caring institution shall determine that arrangements have been made prior to placement to meet the needs of the medically fragile child in the new placement and ensures that such needs are met.

(c) A child caring institution shall not serve more than twelve (12) medically fragile children.

(d) Where the premises are used for multiple purposes, such uses shall be physically distinct and separate from the child caring institution.

(3) Transfer Agreement. Child caring institutions shall have a written transfer agreement in effect with one or more hospitals.

(4) Professional Services.

(a) For professional services not provided directly by the agency, there must be a current letter of agreement or contract on file defining the services to be provided.

(b) Professional services directly provided by child caring institutions shall only be provided by persons who hold a current license or certification.

(5) Record Keeping.

Each child caring institution shall maintain a medical record on each medically fragile child containing sufficient information to

validate the diagnosis and to establish the basis upon which treatment is provided. The record shall normally contain the following:

- (a) The name, address and telephone number of the physician;
- (b) Admitting diagnosis;
- (c) The physician's pre-admission certification;
- (d) Assessment and service plan;
- (e) Treatment and medication orders;
- (f) Nurse's notes;
- (g) Special examinations and reports;
- (h) Therapy notes and reports; and
- (i) Medical condition of the medically fragile child upon discharge from the child caring institution.

(6) Pre-admission.

- (a) Prior to admission a medically fragile child must have a current medical history and physical assessment sufficient to provide appropriate care and treatment to meet the medically fragile child's needs.
- (b) A physician must certify in writing that the medically fragile child's known needs can be met by the child caring institution.

(c) Prior to admission the referral source and the child caring institution staff must complete a discharge plan that identifies the planned date and potential placement at discharge.

(7) Director.

The Director of a child caring institution providing services to medically fragile children shall possess qualifications identified in the provisions of rule 290-2-5-.08(3)(a) & (b) or possess a currently valid Georgia license as a registered nurse, medical doctor or other licensed health care professional and two years experience in their profession.

(8) Staffing. In addition to the staffing provisions set forth in Rule 290-2-5-.08(6), the child caring institution shall also meet the following staffing requirements:

(a) There shall be sufficient qualified staff in attendance at all times to ensure proper supervision of and provision of services to medically fragile children based on the assessed needs and individual service plans.

(b) There shall be, at a minimum, one awake staff on duty at all times who is trained in first aid and has a current CPR certificate.

(9) Physician Services.

Each medically fragile child shall be under the continuing care of a physician. The medically fragile child shall be seen by a physician in accordance with the interdisciplinary assessment and service plan required in subparagraphs 12(2) and (3).

(10) Infection Control.

(a) The child caring institution shall have an effective infection control program to reduce the risks of infections originating, occurring or acquired in the child caring institution to medically fragile children, employees, volunteers and visitors. Appropriate hand sanitization equipment shall be easily accessible throughout the child caring institution.

(b) The director and all employees shall participate in the infection control program.

(c) At a minimum, the program shall specify policies and procedures for infection control that apply to all areas of the child caring institution and these shall include at least the following:

(1.) Procedures to isolate medically fragile children as deemed appropriate;

(2.) Procedures for handling and disposing of hazardous waste products and soiled linens and diapers;

(3.) Procedures for hand washing and hand antisepsis;

(4.) Procedures to ensure that any person whose duties include direct child care, handling food, or handling clean linen, and who has an acute illness or a readily contagious condition, shall not be allowed to work until no longer considered contagious; and

(5.) Procedures for reporting communicable diseases as required by the rules and regulations for notification of disease which have been promulgated by the Department.

(d) Policies and procedures for infection control shall be written, assembled and available to all staff. Such policies and procedures shall be included in the orientation training of every staff member

and shall include a plan for on-going training on infection control and prevention as needed.

(e) The infection control program shall be evaluated at least annually to determine the effectiveness of the program at lowering the risks of infections to medically fragile children, employees, volunteers and visitors. Changes in the infection control program shall reflect consideration of the results of the evaluations. Staff shall be trained on all changes to the policies and procedures within thirty (30) days.

(11) Employee Health.

(a) The child caring institution shall require that each employee receive a physical examination prior to working with medically fragile children and on an annual basis. The examination shall be in sufficient detail with pertinent laboratory and x-ray data to ensure that the employee does not represent a health risk to the medically fragile children.

(b) The child caring institution shall maintain copies documenting signed physician statements certifying that, pursuant to the required initial and annual physical examinations, the employee is free of contagious conditions. These files shall be available for inspection by the Department or other appropriate enforcement authorities on the premises.

(12) Assessment and Service Plan.

(a) In addition to the provisions of Section 290-2-5.10, a child caring institution serving medically fragile children shall also:

(1.) Ensure that an initial assessment and service plan be developed by a registered nurse on the same day of admission and

include at least personal hygiene, immediate dietary needs, medication, and ambulation;

(2.) Ensure that the service plan be completed for each medically fragile child within ten (10) days of admission. The interdisciplinary plan shall be based on oral and written communication with and assessments provided by medical, nursing, social service, and other care staff. The service plan shall specifically identify how these needs will be met either as provided directly or through an arrangement with outside providers; and

(3.) Ensure that the service plan be reviewed and revised as necessary, at least every sixty (60) days, or whenever the medically fragile child experiences a significant change in condition. Such review shall consider input from the interdisciplinary team providing care to the child.

(13) Equipment.

(a) All specialized equipment necessary to meet the needs of the medically fragile children shall be maintained in clean and working order.

(b) The child caring institution must have an emergency generator if life-support systems (ventilators, oxygen from a concentrator or suctioning equipment) are being used to meet the needs of medically fragile children in care. An emergency generator is not required if life support systems are not used.

(14) Emergency Plans and Procedures; Accessibility; and Safety.

(a) The child caring institution shall develop written emergency plans, policies and procedures which shall include plans and

procedures to be followed in case of medical emergencies, power failures, fire, other emergency evacuations or natural disasters.

(b) The emergency plans, including a written evacuation diagram specific to the unit that includes evacuation procedure, location of fire exits, fire alarms, and fire extinguishers, and all other emergency procedures shall be conspicuously posted throughout the child caring institution.

(c) The emergency plan must include a provision that child caring institutions notify fire and police departments and local utility companies of their existence.

(d) All employees shall be trained initially at orientation and annually thereafter in such emergency procedures to be followed in the event of an emergency and instructed in the use of fire-fighting and other emergency equipment and resident evacuation.

(e) Procedures for emergencies shall specify persons to be notified, process of notification and verification of notification, locations of emergency equipment and alarm signals, evacuation routes, procedures for evacuating residents, procedures for reentry and recovery, frequency of fire drills, tasks and responsibilities assigned to all personnel, and shall specify medications and records to be taken from the child caring institution upon evacuation and to be returned following the emergency.

(f) The child caring institution shall maintain documentation of periodic checks of fire alarms and extinguishers.

(g) Child caring institutions serving a medically fragile child dependent upon a wheelchair or other mechanical device for mobility shall have:

(1.) At least two exits from the child caring institution, remote from each other that are accessible to the medically fragile child and with easily negotiable ramps.

(2.) All doorways and hallways leading to exits, as well as bathrooms, must accommodate wheelchair access.

(3.) The bathroom shall be of sufficient size to accommodate a wheelchair and a staff person.

(h) Showers, tubs and toilets shall have grab bars firmly installed and convenient to use.

Authority O.C.G.A. §§ 31-2-6, 49-5-8, and 49-5-12.

290-2-5-.21 Enforcement and Penalties.

(a) **Plans of Correction.** If the Department determines that either a child-caring institution or a facility applying to become licensed as a child-caring institution does not comply with the rules, the Department shall provide written notice specifying the rule(s) violated and setting a time for the institution not to exceed ten (10) working days within which to file an acceptable written plan of correction where the Department has determined that an opportunity to correct is permissible. If such plan of correction is determined not acceptable to the Department because it does not adequately correct the identified violation, the Department will advise the child-caring institution or facility applying to become licensed that the plan of correction is not acceptable. The Department may permit the institution to submit a revised plan of correction.*

(1.) The institution shall comply with an accepted plan of correction.*

(2.) Where the Department determines that either the child-caring institution or the facility applying to become licensed as a child-caring institution has not filed an acceptable plan of correction or has not complied with the accepted plan of correction, the Department may initiate an adverse action to enforce these rules.*

(3) All adverse actions to enforce the Rules and Regulations for Child-Caring Institutions shall be initiated in accordance with the Rules and Regulations for Enforcement of Licensing Requirements, Chapter 290-1-6, and O.C.G.A. §§ 49-5-12 and 49-5-12.1, Penalties for Violation of Child Welfare Agency Laws and Regulations and § 49-5-60 *et seq.* and the requirements set forth herein.*

(b) Required Notifications for Revocations and Suspensions. The institution shall notify each child's parents and/or legal guardians of the Department's actions to revoke the license or seek an emergency suspension of the institution's license to operate.*

(1.) The official notice of the revocation or emergency suspension action and any final resolution, together with the Department's complaint intake phone number and website address, shall be provided by the institution to each current and prospective child's parents and/or legal guardians.*

(2.) The institution shall ensure the posting of the official notice at the institution in an area that is visible to each child's parents and/or legal guardians.*

(3.) The institution shall ensure that the official notice continues to be visible to each child's parents and/or legal guardians throughout the pendency of the revocation and emergency suspension actions, including any appeals.*

(4.) The institution shall have posted in an area that is readily visible to each child's parents and/or legal guardians any inspection

reports that are prepared by the Department during the pendency of any revocation or emergency suspension action.*

(5.) It shall be a violation of these rules for the institution to permit the removal or obliteration of any posted notices of revocation, emergency suspension action, resolution, or inspection survey during the pendency of any revocation or emergency suspension action.*

(6.) The Department may post an official notice of the revocation or emergency suspension action on its website or share the notice of the revocation or emergency suspension action and any information pertaining thereto with any other agencies that may have an interest in the welfare of the children in care at the institution.*

(7.) The Department may suspend any requirements of these rules and the enforcement of any rules where the Governor of the State of Georgia has declared a public health emergency.*

Authority O.C.G.A. §§ 31-2-6, 49-5-8, and 49-5-12.

290-2-5-.22 Emergency Orders.

(1) In accordance with O.C.G.A. 49-5-90 *et seq.*, notwithstanding other remedies* available to the department which may be pursued at the same time, the commissioner or his designee may issue emergency orders. Such orders may include the following:

(a) Emergency relocation of residents when it is determined that the residents are* subject to an imminent and substantial danger.

(b) Emergency placement of a monitor or monitors in an institution upon a finding that* the department's rules and regulations are being violated which threaten the health, safety, or welfare of children in care and when one or more of the following conditions are present:

1. The institution is operating without a license; or
*
2. The department has denied the application for the license or has initiated action to* revoke the existing license; or
3. Children are suspected of being subjected to injury or life-threatening situations or* the health or safety of a child or children are in danger.

(c) Emergency prohibition of admissions to an institution when residents are in* imminent and substantial danger and the institution has failed to correct a violation of rules and regulations within a reasonable time, as specified by the department. Such violation giving rise to the prohibition could jeopardize the health and safety of the residents if allowed to remain uncorrected or is a repeat violation over a twelve month period.

(2) An emergency order shall contain the following*:

- (a) The scope of the order;*
- (b) The reasons for the issuance of the order;*
- (c) The effective date of the order if other than the date the order is issued;*
- (d) The person to whom questions regarding the order are to be addressed; and*

(e) Notice of the right to a preliminary hearing.*

(3) Unless otherwise provided in the order, an emergency order shall become* effective upon its service to the owner, the director, or any other agent, employee, or person in charge of the institution at the time of the service of the order.

(4) Prior to issuing an emergency order, the commissioner or his designee may consult with persons knowledgeable in the field of child care and a representative of the institution to determine if there is a potential for greater adverse effects on children in care as a result of the emergency order.

Authority O.C.G.A. §§ 31-2-6, 49-5-8, and 49-5-12.

290-2-5-.23 Waivers and Variances. The department may, in its discretion, grant* waivers and variances of specific rules upon application or petition being filed by an institution. The department may establish conditions which must be met by the institution in order to operate under the waiver or variance granted. Waivers and variances may be granted in accordance with the following considerations:

(a) Variance. A variance may be granted by the department upon a showing by the* applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety and care of the children exist and will be met in lieu of the exact requirements of the rule or regulations in question.

(b) Waiver. The department may dispense entirely with the enforcement of a rule or* regulation upon a showing by the applicant or petitioner that the purpose of the rule or regulation is

met through equivalent standards affording equivalent protection for the health, safety and care of the children.

(c) Experimental Variance or Waiver. The department may grant waivers and* variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery.

Authority O.C.G.A. §§ 31-2-6, 49-5-8, and 49-5-12.

290-2-5-.24 Severability. In the event that any rule, sentence, clause or phrase of* any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority O.C.G.A. §§ 31-2-6, 49-5-8, and 49-5-12.